

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

Document #

107

Ruotolo

JSCA NO. 06-3886-CV

- SDNY NO. 03-cv-5045

JUDGE: SHS

DATE: 2/5/2007

City of n.y.

INDEX TO THE RECORD OF APPEAL NO. 06

PREPARED BY (NAME):

Darryl Fraser

FIRM:

A.I.

ADDRESS:

3 Barker Avenue

White Plains, N.Y.

PHONE NO.:

DISTRICT COURT DOCKET E-FILES

DOCUMENTS

DOCS

Link's Certificate

See Attached List of Numbered Documents

☒ Original Record

☐ Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
 for the Second Circuit on the 5th Day of Feb. 2007.

**United States District Court for
the Southern District of New York**

Ruotolo

-v-

City of n.y.

Date: 2/5/2007
U.S.C.A. # 06 3886-cv

U.S.D.C. # 03cv 5045

D.C. JUDGE SHS

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 106, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

<u>Date Filed</u>	<u>Document Description</u>
<u>11/15/2004</u>	<u>Memorandum of LAW</u>
<u>5/24/2005</u>	<u>Order</u>
<u>4/21/2006</u>	<u>Endorsed Letter</u>
<u>9/20/2005</u>	<u>Answer</u>

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 5th Day of February in this year of our Lord, Two Thousand and Seven, and the Independence of the United States this 231st year.

J. Michael McMahon, Clerk
By [Signature]
Deputy Clerk

APPEAR, CLOSTED

U.S. District Court
United States District Court for the Southern District of New York (Holey Square)
CIVIL DOCKET FOR CASE #: 03-cv-05045-SHS-DCF
Internal Use Only

Re: City of New York, et al.
Assigned by Judge Sidney H. Stein
Referred to Magistrate Judge Debra C. Freeman
Demand: \$1,250,000
Class: 201983 Prisoner Civil Rights

Date Filed: 07/08/2003
Date Terminated: 07/21/2006
Jury Demand: Plaintiff
Nature of Suit: Civil Rights; Other
Jurisdiction: Federal Question

Date Filed	#	Docket Text
07/08/2003	1	COMPLAINT filed. Amended and Notice pursuant to 28 U.S.C. 636(c). FILING Fee \$ 150.00 RECEIPT # 478286. (jmc) (Entered: 07/09/2003)
07/08/2003		Magistrate Judge Debra C. Freeman is designated. (jmc) (Entered: 07/09/2003)
07/08/2003	2	ORDER: this action has been assigned to this Court for all purposes. Counsel are directed to appear in court room 25A on 8/14/03 at 11:00 a.m. for an initial case management conference. Plaintiff's attorney shall notify defendants' attorney of this conference. (Signed by Judge Sidney H. Stein) Copies mailed by chambers. (sw) (Entered: 07/24/2003)
07/08/2003	3	WAIVER OF SERVICE of summons and complaint returned executed as to Phillip Wisniewski mailed on 7/21/03. Answer due on 9/1/03 for Phillip Wisniewski. (Larson) (Entered: 07/30/2003)
07/08/2003	4	WAIVER OF SERVICE of summons and complaint returned executed as to Raymond Rooney mailed on 7/21/03. Answer due on 9/1/03 for Raymond Rooney. (Larson) (Entered: 07/30/2003)
07/08/2003	5	WAIVER OF SERVICE of summons and complaint returned executed as to William Riley mailed on 7/18/03. Answer due on 9/1/03 for William Riley. (Larson) (Entered: 07/30/2003)
07/22/2003	5	Memo-Endorsement on letter addressed to Judge Stein from Donald C. Sullivan, dated 7/30/03, re: set answer to complaint due for 9/1/03 for City of New York re: pretrial conference to be held on 9/26/03 (Signed by Judge Sidney H. Stein); (cd) (Entered: 08/05/2003)
07/22/2003	7	Memo-Endorsement on letter addressed to Judge Stein from Donald C. Sullivan, dated 07/15/03. Counsel for defendants requests that defendants' response to the Complaint be served on 10/14/03 and request an adjournment of the 9/26/03 conference. Last day to respond to the complaint is adjourned to 10/14/03; pretrial conference remains at 9/26/03 at 10 a.m., unless defense counsel is actually on trial in SDNY. (Signed by Judge Sidney H. Stein); (sb) (Entered: 09/22/2003)
09/14/2003	8	ORDER: Plaintiff shall submit a limited number of written questions to Inspector Sartor, without prejudice to plaintiff's right to conduct a deposition of Inspector Sartor at a later date by 10/3/03; Inspector Sartor shall respond to the questions by 10/10/03; set pretrial conference for 9/26/03 on 10/23/03. (Signed by Judge Sidney H. Stein); (bwt) (Entered: 10/01/2003)
11/12/2003	9	Order that case be referred to the work of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement). Referred to Magistrate Judge Debra C. Freeman. (Signed by Judge Sidney H. Stein). (Larson) (Entered: 11/12/2003)
11/12/2003	10	Memo-Endorsement on letter addressed to Judge Sidney H. Stein from Donald C. Sullivan, dated 11/7/03; Defendants serve motion by 11/09/03; plaintiff's response by 12/01/03; defendants serve reply by 1/7/04. (Signed by Judge Sidney H. Stein); (bwt) (Entered: 11/27/2003)
12/23/2003	11	ENDORSED LETTER addressed to Judge Stein from Carol Kohn dated 12/15/03; plaintiff's opposition is due 1/10/04, and the reply is due 2/10/04; defendants' motion to dismiss. (Signed by Judge Sidney H. Stein on 12/16/03); (cd) (Entered: 01/12/2004)
12/23/2003		Set/Reset Deadlines: (1) answer: 1/7/04; (2) reply: 1/10/04; (3) re: definition to dismiss: 2/10/04. (Entered: 01/12/2004)
01/23/2004		Minute Entry: re: pre-trial conference held by Judge Debra C. Freeman Telephone Conference held on 1/23/2004. (sw) (Entered: 01/30/2004)
01/23/2004		Set Deadlines/Hearings: Teleconference with court room set for 02/02/2004 10:00 AM, before Magistrate Judge Debra C. Freeman. (sw) (Entered: 01/26/2004)
02/06/2004	12	MEMORANDUM OF DECISION upon motion to set aside the Bill of Attainder. Document filed by Angelo Rautolo. (sb) (Entered: 02/11/2004)
02/06/2004	13	MOTION TO WITHDRAW Bill of Attainder Motion to Dismiss. Document filed by Angelo Rautolo. (sb) (Entered: 02/11/2004)
02/06/2004	15	MOTION FILED ON SERVICE DATE to Dismiss the complaint with attached declaration of Donald C. Sullivan in support of motion. Document filed by City of New York, Thomas DiRusso, Anthony Izzo, Raymond Kelly, William Riley, Raymond Rooney, Patrick J. Timlin, Philip Wisniewski. (Entered: 02/07/2004)
02/09/2004	14	ENDORSED LETTER addressed to Judge Stein from Donald Sullivan dated 2/6/2004 re: granting counsel for defendants request for additional pages on their reply in support of their motion to dismiss. (Signed by Judge Sidney H. Stein on 2/9/2004); (jmc) (Entered: 02/12/2004)
02/10/2004	16	AFFIDAVIT of WILLINGNESS to Deposition re: [15] MOTION (FILED ON SERVICE DATE) to Dismiss. (Approved for Filing by SHS) Document filed by Angelo Rautolo. (pb) (Entered: 02/17/2004)
02/10/2004	17	MEMORANDUM OF DECISION upon motion re: [15] MOTION (FILED ON SERVICE DATE) to Dismiss. Document filed by Angelo Rautolo. (pb) (Entered: 02/17/2004)

- 01/19/2004 (18) REPLY DECLARATION in Support of Defendant's (15) MOTION (FILED ON SERVICE DATE) to Dismiss. Document filed by City of New York. Thomas DeBusca, Anthony Isaac Keyser, and Kelly, William Riley, Raymond Rooney, Patrick J. Tindlin, Philip Wishnia. (pw,) (Entered: 01/19/2004)
- 01/19/2004 (19) MEMORANDUM OF LAW in Support of (15) MOTION (FILED ON SERVICE DATE) to Dismiss. Document filed by City of New York. Thomas DeBusca, Anthony Isaac Keyser, Raymond Kelly, William Riley, Raymond Rooney, Patrick J. Tindlin, Philip Wishnia. (pw,) (Entered: 01/19/2004)
- 01/19/2004 (20) ORDER CLAMBERSON, CLAMBERSON, Further Support of (15) MOTION (FILED ON SERVICE DATE) to Dismiss. Document filed by City of New York. Thomas DeBusca, Anthony Isaac Keyser, Kelly, William Riley, Raymond Rooney, Patrick J. Tindlin, Philip Wishnia. (pw,) (Entered: 01/19/2004)
- 01/19/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Telephone Conference held on 1/19/2004. (kw,) (Entered: 01/19/2004)
- 01/23/2004 (21) SCHEDULING ORDER, re: case set for 01/23/2004. Telephone Conference set for 1/23/2004 10:00 AM before Magistrate Judge Debra C. Freeman. (Signed by Judge Debra C. Freeman on 1/23/2004.) (pw,) (Entered: 01/23/2004)
- 01/23/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Interim Pretrial Telephone Conference held on 1/23/2004. (kw,) (Entered: 01/23/2004)
- 01/24/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Telephone Conference held on 1/24/2004. (kw,) (Entered: 01/24/2004)
- 01/27/2004 Set Deadlines/ Hearings/ Telephone Conference set for 1/27/2004 10:00 AM before Magistrate Judge Debra C. Freeman. (kw,) (Entered: 01/27/2004)
- 01/27/2004 MEMORANDUM, re: Pretrial Order, re: proceedings held before Judge Debra C. Freeman: Telephone Conference held on 1/27/2004. New York City set for 10:00 am. (kw,) (Entered: 01/27/2004)
- 01/27/2004 (22) CONFIDENTIALITY PROTECTION ORDER, regarding proceedings that will govern the handling of confidential discovery matters. (Signed by Judge Debra C. Freeman on 1/27/2004.) (Entered: 01/27/2004)
- 01/27/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Status Telephone Conference held on 1/27/2004. (kw,) (Entered: 01/27/2004)
- 01/27/2004 MEMORANDUM, re: Pretrial Order, re: proceedings held before Judge Debra C. Freeman: Status Telephone Conference held on 1/27/2004. (kw,) (Entered: 01/27/2004)
- 01/27/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Settlement Conference held on 1/27/2004. (kw,) (Entered: 01/27/2004)
- 01/28/2004 Set Deadlines/ Hearings/ Telephone Conference set for 1/28/2004 11:00 AM before Magistrate Judge Debra C. Freeman. (kw,) (Entered: 01/28/2004)
- 01/28/2004 MEMORANDUM, re: Pretrial Order, re: proceedings held before Judge Debra C. Freeman: Settlement Conference held on 1/28/2004. Settlement Conference set for 1/28/2004 11:00 AM before Magistrate Judge Debra C. Freeman. (kw,) (Entered: 01/28/2004)
- 01/28/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Interim Pretrial Conference (in Court) held on 1/28/2004. Follow-up conference scheduled for 1/29/2004 at 10:00 am. (pw,) (Entered: 01/28/2004)
- 01/28/2004 Set Deadlines/ Hearings/ Telephone Conference set for 1/28/2004 10:00 AM before Judge Sidney H. Stein. (pw,) (Entered: 01/28/2004)
- 01/28/2004 (23) SUBSTITUTION OF ATTORNEY, that the law firm of Messman and Neftciog, 475 Park Avenue South, 16th Floor, N.Y.C. 10016, will be substituted as counsel for plaintiff in this action. (Signed by Judge Debra C. Freeman on 1/28/2004) Copies Mailed By Chambership. (Entered: 01/28/2004)
- 01/29/2004 (24) ORDER denying plaintiff's Motion to Dismiss. For the reasons set forth on the record today, defendant's motion to dismiss the complaint is denied. The court grants the motion to dismiss the first and second claims for relief. The motion is granted to the extent that the third claim for relief is dismissed. The Complaint is deemed amended to add the phrase, "Section 25-b of the New York Civil Service Law" as paragraph 62 of the complaint, contained in the dismissed third claim. So Ordered. (Signed by Judge Sidney H. Stein on 1/29/2004.) (pw,) (Entered: 01/29/2004)
- 01/29/2004 (25) TRANSCRIPT of proceedings held on 1/29/2004 before Judge Debra C. Freeman. (pw,) (Entered: 01/29/2004)
- 01/29/2004 (26) TRANSCRIPT of proceedings held on 1/29/2004 before Judge Sidney H. Stein. (pw,) (Entered: 01/29/2004)
- 01/29/2004 (27) ENDORSED LETTER addressed to Judge Stein from B. Nate Messman dated 1/29/2004 re: upon consideration of this letter, and defendant's letter of 1/29/2004, plaintiff's motion to reinstate the third claim for relief is denied. (Signed by Judge Sidney H. Stein on 1/29/2004.) (pw,) (Entered: 01/29/2004)
- 01/29/2004 (28) TRANSCRIPT of proceedings held on 1/29/2004 before Judge Debra C. Freeman. (pw,) (Entered: 01/29/2004)
- 01/29/2004 Set Deadlines/ Hearings/ Settlement Conference set for 1/29/2004 11:00 AM before Judge Sidney H. Stein. Telephone Conference set for 1/29/2004 10:00 AM before Judge Sidney H. Stein. (pw,) (Entered: 01/29/2004)
- 01/29/2004 Minute Entry for proceedings held before Judge Debra C. Freeman: Settlement Conference held on 1/29/2004. Settlement Conference set for 1/29/2004 10:00 am. Follow up for 1/29/2004 at 10:00 am. (pw,) (Entered: 01/29/2004)
- 01/29/2004 (29) SCHEDULING ORDER, re: the telephone conference with the court on 1/29/2004 with counsel for both parties; Plaintiff's expert report has been received no later than 1/29/2004 and is due by 1/29/2004. Settlement Conference set for 1/29/2004 10:00 AM before Magistrate Judge Debra C. Freeman. Telephone Conference set for 1/29/2004 10:00 AM before Magistrate Judge Debra C. Freeman. Signed by Judge Debra C. Freeman on 1/29/2004. Copies mailed by Chambership. (Entered: 01/29/2004)
- 01/29/2004 (30) AFFIDAVIT OF MOTION, re: Affidavit of Service of Process and Supplemental to the Complaint, With The Exhibit Attached. (Signed by Plaintiff's Attorney, Anthony Keyser, on 1/29/2004.) (Entered: 01/29/2004)
- 01/29/2004 (31) MEMORANDUM OF LAW in Support of (30) MOTION (FILED ON SERVICE DATE) to Deny/Correct. Document filed by Angelo Rucotke. (pw,) (Entered: 01/29/2004)

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2/5/2007 12:07 PM

11/31/2005	65	REPLY MEMORANDUM of Plaintiff, Sidney H. Stein from Plaintiff, Steven J. Profeta dated 10/31/05 re: a request for permission to file a 22 page motion for summary judgment, ENDORSEMENT: So ordered. (Signed by Judge Sidney H. Stein on 10/31/05) (luc.) (Entered: 11/02/2005)
11/01/2005	66	MOTION (FILED ON SERVICE DATE) for Summary Judgment pursuant to FRCP 56; attached are papers in support. Document filed by City of New York, Raymond Kelly, Patrick J. Thibault, Anthony Izzo, James Flessig, Anthony Henry, Terence A. Monahan, Raymond Rooney, William Riley, Thomas DiRusso, Philip W. Latta. (cd.) (Entered: 11/01/2005)
11/02/2005	67	MEMORANDUM of Plaintiff, Sidney H. Stein from Plaintiff, Steven J. Profeta dated 11/2/05 re: Request permission to submit a memorandum of law of 10 pages in opposition to defendant's motion for summary judgment. ENDORSEMENT: So ordered. (Signed by Judge Sidney H. Stein on 11/2/05) (luc.) (Entered: 11/29/2005)
11/02/2005	68	ENDORSED LETTER of Plaintiff, Sidney H. Stein from Plaintiff, Steven J. Profeta dated 11/2/05 re: Request permission to submit a memorandum of law of 10 pages in opposition to defendant's motion for summary judgment. ENDORSEMENT: So ordered. (Signed by Judge Sidney H. Stein on 11/2/05) (luc.) (Entered: 11/29/2005)
11/02/2005	69	MOTION (FILED ON SERVICE DATE) for Summary Judgment. Document filed by Angelo Rinaldi. (luc.) (Entered: 11/02/2005)
11/02/2005	70	MOTION (FILED ON SERVICE DATE) for Summary Judgment. Document filed by Angelo Rinaldi. (luc.) (Entered: 11/02/2005)
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11/02/2005	99	MOTION (FILED ON SERVICE DATE) for Summary Judgment. Document filed by Angelo Rinaldi. (luc.) (Entered: 11/02/2005)
11/02/2005	100	MOTION (FILED ON SERVICE DATE) for Summary Judgment. Document filed by Angelo Rinaldi. (luc.) (Entered: 11/02/2005)

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